

LEGISLATIVE AND REGULATORY REFORM ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Supplementary and General

General

Section 32: General interpretation

163. This section defines terms used throughout the Act.
164. Of particular note is the definition of “regulatory function” in subsection (2). This definition applies to the term as it appears in Parts 1 and 2 of the Act.
165. The Act does not attempt to define a “regulator”, but rather provides a broad definition of the functions carried out by such persons or bodies. Functions falling within the definition might be exercised by a wide range of bodies including Government departments, local authorities and independent statutory regulators. The first limb of the definition (subsection (2)(a)) is aimed at functions of ‘regulating’ (for example by producing rules, or imposing requirements, which apply to a category of persons). The second limb (subsection (2)(b)) covers functions of enforcing or securing compliance with such regulation. A regulatory function of making rules or regulations falling within the first limb could be exercised by a different person than the corresponding regulatory function (falling within the second limb of the definition) of securing compliance with or enforcing those rules or regulations.
166. Only functions that fall within this definition may be the subject of an order made under section 2, or may be included in an order made by a Minister (or the Assembly) under section 24. Orders made under section 1 can only reduce or remove burdens which only affect Ministers or Government Departments where they affect the exercise of regulatory functions.
167. Subsection (3)(b) states that the definition of ‘regulatory function’ does not include any functions exercisable by one of the bodies of the Church of England or by a person holding office in the Church of England, which would otherwise fall within the definition.
168. Subsection (3)(b)(ii) expressly excludes from the definition of regulatory function the function of conducting criminal or civil proceedings. However, this would not exclude the making of a decision to instigate such proceedings.
169. The provision in subsection (4) makes clear that the definition in subsection (2) of regulatory function includes regulation of the activities of providing goods or services, and employing or offering employment to any person.